

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	EB Docket No. 07-147
)	
PENDLETON C. WAUGH, CHARLES M.)	File No. EB-06-IH-2112
AUSTIN, and JAY R. BISHOP)	NAL/Acct. No. 200732080025
)	
PREFERRED COMMUNICATION)	FRN No. 0003769049
SYSTEMS, INC.)	
)	
Licensee of Various Site-by-Site Licenses)	
in the Specialized Mobile Radio Service)	
)	
PREFERRED ACQUISITIONS, INC.)	FRN No. 0003786183
)	
Licensee of Various Economic Area Licenses)	
in the 800 MHz Specialized Mobile Radio)	
Services)	

To: The Honorable Judge Arthur I. Steinberg

RESPONSE BY PREFERRED COMMUNICATION SYSTEMS, INC.
TO REQUEST FOR PRODUCTION OF DOCUMENTS

Preferred Communication Systems, Inc. ("PCSI"), by its attorneys and pursuant to Section 1.325 of the Commission's Rules, hereby responds to the First Request for Production of Documents to Preferred Acquisitions, Inc. ("Document Request"), filed November 5, 2007 by the Enforcement Bureau ("Bureau") herein.

General Objections.

A. Previously-Produced Documents

PCSI objects to having to identify or produce any document whatsoever that was previously produced to the Bureau pre-designation. Bureau counsel already possesses these documents, and is at least as capable as PCSI's counsel in determining whether any such documents are relevant and material. There is nothing in the Commission's rules which

obligates a hearing respondent to perform the Bureau's investigative functions for it. This objection applies to each and every document request.

B. Publicly Available Materials in FCC Files.

PCSI also objects to every request to identify or produce copies of FCC applications or other documents on file with the FCC (such as, for example, filings in rulemaking proceedings) and matters of public record at the FCC, such as FCC decisions. The Bureau can review such publicly available materials already. It would be unduly burdensome and unfair to require PCSI's counsel to have to sift through such materials, at PCSI's expense, to determine which ones might be of interest to the Bureau. This objection applies to each and every document request.

C. Documents Created Post-Designation.

Finally, PCSI objects to every request, to the extent such request seeks to have PCSI identify or produce any document which was created after the release of the *Hearing Designation Order* herein. Aside from the fact that doing so would be unduly burdensome, most if not all such documents were prepared in anticipation of this litigation, and would consist almost entirely of either privileged information or attorney thought processes (*i.e.*, work product). To the limited extent that any such post-designation document might repeat information also contained in one or more pre-designation documents or discovery responses, it is duplicative, and the Bureau has no need to see it.

Specific Answers and Objections.

1. *All formation and organizational Documents relating to PCSI, including, but not limited to, articles of incorporation, by laws, minutes of corporate meetings, appointment or dismissal of directors, issuance or reclassification of stock, employee compensation, sale of major assets, dissolution, agreements, voting rights, proxies, and any and all amendments thereto.* These documents have been requested from corporate counsel to PCSI in Texas, and will be made available when received.

2. *All Documents relating to the participation, of any kind and to any extent whatsoever, of Pendleton C. Waugh in the formation and/or operation, day-to-day and otherwise, of PCSI.*

PCSI objects to this request as overbroad and unduly burdensome. On its face, this request could pertain to virtually every document ever created pertaining to PCSI. See, also, the general objections above. Notwithstanding the general objections, documents which are not subject to the foregoing objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

3. *All Documents that Pendleton C. Waugh signed or executed on behalf of PCSI.* See the general objections above. Also, PCSI objects to this request as vague, overbroad and unduly burdensome. On its face, this request seeks every single document ever generated by Mr. Waugh over a ten-year period that even mentioned PCSI. Notwithstanding the foregoing objections, documents which are not subject to said objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

4. *All Documents relating to voting interest or future voting interests in PCSI.* See response to request no.1 above. See, also, the general objections above. Notwithstanding the general objections, documents which are not subject to the foregoing objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to

this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

5. *All Documents relating to the issuance or future issuance of shares of stock in PCSI.*

See response to request no.4 above.

6. *All Documents relating to trusts for the issuance or future issuance of shares of stock in PCSI.* See response to request no.4 above.

7. *All Documents relating to the issuance or future issuance of financial interests of any kind (other than shares of stock) in PCSI.* See response to request no.4 above.

8. *All books of accounting, including payroll records, for PCSI.* PCSI objects to this request as totally irrelevant. Regarding books of accounting, no PCSI application ever filed with the FCC ever contained any financial certification question, and the *Hearing Designation Order* herein contained no issue pertaining either to PCSI's finances or to any financial certification concerning site-based licenses. This request as it pertains to PCSI's payroll records is an invasion of privacy. PCSI is willing to stipulate that neither Pendleton C. Waugh nor Jay Bishop were ever employees of PCSI and that there are no payroll records for Mr. Waugh or Mr. Bishop.

9. *All documents relating to investors and investments in PCSI.* See response to request no.4 above.

10. *All documents, including but not limited to, agreements, contracts, arrangements or understandings, relating to work performed or work to be performed by Pendleton C. Waugh, of any kind and to any extent whatsoever, on behalf of PCSI.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of

privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

11. *All documents relating to compensation or consideration, of any kind and to any extent whatsoever, made, paid or promised to, Pendleton C. Waugh for work or services of any kind and to any extent whatsoever performed by him on behalf of P[C]SI.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

12. *All Federal income tax returns filed by PCSI, from January 1, 1998, to the present.* PCSI objects to this request. PCSI's tax returns are totally irrelevant to any issue designated herein, and are not likely to lead to the production or preservation of admissible evidence. This request is therefore beyond the scope of proper discovery. As previously mentioned, no PCSI application ever filed with the FCC ever contained any financial certification question, and the *Hearing Designation Order* herein contained no issue pertaining either to PCSI's finances or to any financial certification concerning site-based licenses.

13. *All Documents relating to the establishment of annual budgets, business plans, operating expenses, debt financing, and financing generally for PCSI for the years 1998 to the present.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

14. *All documents related to financial accounts with any banks, financial or other institutions, groups, entities or individuals relating to the receipt, distribution, or allocation of PCSI's funds.* PCSI objects to this request on the grounds that it is irrelevant. No PCSI application filed with the FCC ever contained any financial certification question, and the *Hearing Designation Order* herein contained no issue pertaining either to PCSI's finances or to any financial certification concerning site-based licenses.

15 *All documents relating to hiring, firing, or supervision of the employees, officers, independent contractor, or consultants of PCSI.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

16. *All Documents relating to and/or evidencing Charles M. Austin's knowledge of each of the felony convictions of Pendleton C. Waugh.* There are no such documents, other than those already produced to the Bureau in response to pre-designation requests from the Bureau. See the general objections above.

17. *All Documents relating to and/or evidencing Charles M. Austin's knowledge of each of the felony convictions of Jay R. Bishop.* There are no such documents, other than those already produced to the Bureau in response to pre-designation requests from the Bureau. See the general objections above.

18. *All applications filed or on behalf of PCSI with the Commission and all Documents relating to the planning, preparation, review and filing of such applications.* PCSI objects to producing copies of any FCC applications. See the general objections above. PCSI objects to the remainder of this request as vague and overbroad. On its face, this request could pertain to virtually every document ever created pertaining to PCSI.

Notwithstanding this objection, documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

19. *All documents relating to customers of PCSI and/or customers of services provided by PCSI.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. If additional documents responsive to this request are subsequently located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

20. *All documents, including but not limited to leases, contracts, arrangements, commitments and/or understandings, relating to antenna towers for stations of which PCSI is or was the licensee.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. If additional documents responsive to this request are subsequently located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.

21. *All Documents relating to the purchase, sale and/or lease of equipment of any kind whatsoever for stations of which PCSI is or was the licensee.* Documents which are not subject to the general objections and which PCSI believes to be responsive to this request are being produced, and are available for inspection at the offices of PCSI's counsel herein. PCSI is


continuing to search for documents responsive to this request. If additional documents are located and identified, they will either be produced, or, if withheld based upon a claim of privilege, work product doctrine or otherwise, would be identified by (if known) author, recipient(s), date, title and type of claim.


22. *All Documents supporting PCSI's answers to the Enforcement Bureau's First Set of Interrogatories to Preferred Communication Systems, Inc.* PCSI objects to this request as overbroad and vague. To the extent it relates to such corroboratory documents upon which PCSI ultimately decides to rely at hearing, it is premature, as discussed in the objection to request no.16 below.

23. *All Documents on which PCSI intends to rely to support any legal or factual premise or defense at any hearing in this proceeding.* PCSI objects to this request as premature. PCSI expects that the Presiding Judge will enter an appropriate pre-hearing order pertaining to the exchange by all parties of those documents which each intends to introduce into evidence at hearing, and PCSI would intend to abide by any such pre-hearing order, which presumably would be reciprocal and apply to the Bureau as well.

Respectfully submitted,

**PREFERRED COMMUNICATION SYSTEMS,
INC.**

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November 26, 2007

CERTIFICATE OF SERVICE

I, Steve Denison, a paralegal at the law firm of Brown, Nietert & Kaufman, Chartered, hereby certify that I have caused a copy of the foregoing **"RESPONSE BY PREFERRED COMMUNICATION SYSTEMS, INC. TO REQUEST FOR PRODUCTION OF DOCUMENTS"** to be sent by electronic mail, this 26th day of November, 2007, to the following:

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